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March 19, 2019

BY EMAIL AND U.S. MAIL

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Re: Superior Refining Company in Superior, Wisconsin

Dear Mr. Clark and Ms. Bodine:

On behalf of Superior Refining Company LLC (SRC or Company), we write to request a meeting as soon as your calendars allow to discuss the Superior Refinery in Superior, Wisconsin.

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Background

Superior is Wisconsin's only refinery. The Superior Refinery is currently shut down pending a rebuild project following an incident in April 2018. It previously made transportation fuels such as gas and diesel, as well as asphalt. The refinery provides more than 300 good-paying jobs, with most of the workforce located in northwest Wisconsin and northern Minnesota. These jobs have been retained pending restart of the refinery. The jobs and other refinery spending have resulted in several hundred millions dollars of annual economic activity in Wisconsin and Minnesota.

In November 2017, a U.S. subsidiary of Husky Energy purchased the refinery. Five months later, on April 26, 2018, an explosion occurred in the fluid catalytic cracking unit (FCCU) of the refinery during a planned shutdown for a turnaround. The explosion resulted in a breach of an asphalt tank, causing asphalt to catch fire, and an evacuation order was issued in an abundance of caution. The fire was put out the same day. No fatalities were suffered, and the community

March 19, 2019

Page 2

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evacuation order was lifted the following day. The Company immediately announced that it would rebuild the affected units at the refinery and reopen, based on then-known information.

During the shutdown, the importance of the refinery to local communities in Wisconsin and Minnesota has become even more apparent. The price of asphalt has increased by more than 30%. As a result, local governments in Minnesota and Wisconsin have been forced to delay much needed infrastructure projects.¹ Without the refinery, the Superior utility has had to significantly increase water rates to offset lost revenue from the refinery, with electric and natural gas rates rising as well.²

History of Consent Decree Negotiations

Since the April 2018 incident, we have been working with your staffs, U.S. EPA Region 5, the Wisconsin Department of Justice, and the Wisconsin Department of Natural Resources (DNR). Our discussions have focused on amending the existing Clean Air Act consent decree for the refinery in a manner that resolves any claims arising from the incident and that facilitates the timely rebuilding of the refinery.³

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¹ See, e.g., Jimmy Lovrien, Refinery Explosion Roils Regional Asphalt Supply, Duluth News Tribune (Aug. 16, 2018), <https://www.pineandlakes.com/news/traffic-and-construction/4486780-refinery-explosion-roils-northern-minnesotas-asphalt-supply>; Tom Lisi, How the Price of Asphalt has been Changing – and What It Means for Decatur Road Repairs, Herald & Review (Jan. 16, 2019), https://herald-review.com/news/local/govt-and-politics/how-the-price-of-asphalt-has-been-changing-and-what/article_189f03c6-7e9d-5d30-bffa-7b76d7d36487.html.

² Danielle Kading, PSC Approves Rate Hikes for Superior Utility, Wisconsin Public Radio (Nov. 30, 2018), <https://www.wpr.org/psc-approves-rate-hikes-superior-utility>.

³ Consent Decree, *United States v. Murphy Oil USA, Inc.*, No. 10-cv-563 (W.D. Wis. Feb. 16, 2011), ECF 9, as amended by First Amendment to Consent Decree (May 2, 2012), ECF 12.

Ex. 4 CBI

March 19, 2019

Page 3

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This is precisely the kind of pre-construction dispute that Section 167 of the Clean Air Act authorizes EPA to resolve. That provision of the Act authorizes EPA to take actions, including settlements, before construction.⁸ For example, in *United States v. Golden Valley Electric*

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⁸ See 42 U.S.C. § 7477; *United States v. Xcel Energy*, 759 F. Supp. 2d 1106 (D. Minn. 2010) (granting EPA's motion for preliminary injunction to obtain documents for preconstruction activities, in part, because "Section 167 presents no limitation on *when* the EPA's authority commences; it merely requires EPA to prevent a non-conforming construction or modification." (emphasis in original)). Section 167 provides that the "Administrator

March 19, 2019

Page 4

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Association, the United States resolved a dispute about whether a prior PSD permit authorized the restart of a facility where the defendants intended to spend millions on capital upgrades.⁹ The triggering event that gave rise to the Section 167 claim was the defendants' announcement of their "intention to restart and/or reactive" the facility.¹⁰ Additional settlement precedents are in accord.¹¹

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shall, and a State may, take such measures, including issuance of an order, or seeking injunctive relief, as necessary to prevent the construction or modification of a major emitting facility which does not conform to the requirements of³ the PSD program. 42 U.S.C. § 7477.

⁹ Consent Decree, *United States v. Golden Valley Elec. Ass'n*, No. 4:12-cv-0025 (D. Alaska Nov. 19, 2012), ECF 17.

¹⁰ See Compl. ¶ 25, *United States v. Golden Valley Elec. Ass'n*, No. 4:12-cv-0025 (D. Alaska Oct. 2, 2012), ECF 1.

¹¹ See Attachments 1–3 and authorities cited therein.

March 19, 2019

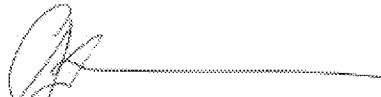
Page 5

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Ex. 4 CBI

We appreciate your consideration of this request and look forward to discussing this issue with you further. As noted above, we would propose to meet as soon as possible. In that regards, we would propose the following dates for a meeting: March 21, 22, 28, or 29. However, we are flexible to work around your schedules if another date is available. Following that meeting, we look forward to moving forward in discussion with your staffs. In the meantime, please contact me at 202-669-6608 if you have any questions.

Sincerely,



Justin A. Savage
Partner

cc: Cathy Stepp, U.S. Environmental Protection Agency
Phillip Brooks, U.S. Environmental Protection Agency
Greg Fried, U.S. Environmental Protection Agency
John Fogarty, U.S. Environmental Protection Agency
Rachel Zander, U.S. Environmental Protection Agency
Bill Wagner, U.S. Environmental Protection Agency
Leslie Herje, U.S. Attorney's Office for the Western District of Wisconsin
Bradley Motl, Wisconsin Department of Justice
James Bonar-Bridges, Wisconsin Department of Natural Resources

JAS:grj

Enclosures

ATTACHMENT

1



Considerations Impacting Restart of the Superior Refinery

Prepared by:

Superior Refining Company LLC

Submitted to:

**U.S. Environmental Protection Agency
Wisconsin Department of Natural Resources**

**U.S. Department of Justice
Wisconsin Department of Justice**

November 13, 2018

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CONTAINS CONFIDENTIAL BUSINESS INFORMATION**

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Table of Contents

I.	Summary of Issue	1
II.	Rebuild Decisions	1
III.	State Permitting Considerations – Flex Permit	3
	A. Modeling	4
	B. BACT Analyses	5
IV.	Proposed Consent Decree Authorizing Rebuild	5
	A. Enforcement Discretion	5
	B. Precedent Supports Using a Consent Decree to Allow the Rebuild.	9
	1. Pacific Gas & Electric’s Gateway Generating Station	10
	2. Alcoa’s Rockdale Facility	11
	3. Golden Valley’s Healy Unit.....	12
V.	Conclusion	13
I.	Attachment I – Refinery Process Descriptions for Rebuild Effort	14
II.	Attachment II – Simplified Refinery Process Flow Diagram	16

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CONTAINS CONFIDENTIAL BUSINESS INFORMATION**



I. Summary of Issue

Superior Refining Company LLC (“SRC”), the ultimate subsidiary of Husky Energy Inc., is developing a strategy to rebuild its refinery in Superior, Wisconsin, following the incident that occurred on April 26, 2018 (the “Incident”). The Incident caused significant damage within the refinery, including damage to the Fluid Catalytic Cracking Unit (“FCCU”), south-Crude Saturated Gas (“Sat Gas”) Plant, Crude Vacuum Unit, Asphalt Tank Farm, and associated auxiliary equipment.

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SRC plans on starting construction on the rebuild project in Fall 2019.

We recognize that this is an aggressive schedule and appreciate the steps taken by federal and state regulators to allocate the necessary resources for this effort. As such, we are committed to a transparent and comprehensive exchange of information in order to help move the process forward.

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II. Rebuild Decisions

As a result of the Incident, SRC will need to repair or replace the damaged units referenced above. At a high level, the refinery’s purpose is to separate and process raw crude oil into various crude oil fractions which are ultimately transformed into valuable products such as liquefied petroleum gases (LPGs), gasoline, kerosene, jet fuel, diesel oil, heavy fuel oils and multiple grades of asphalt.

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¹ Wisconsin Department of Natural Resources, Air Pollution Control Construction Permit No. 16-RAB-184 (Feb. 16, 2018) (“Flex Permit”). The Flex Permit documents cited herein can be found on the WDNR Air Management Program website by searching for Facility ID 816009590, Permit 16-RAB-184, *available at* https://dnr.wi.gov/cias/am/amexternal/AM_PermiTTracking2.aspx?id=3002435. The Flex Permit documents and associated application will be transmitted with this document.

² Consent Decree, *United States v. Murphy Oil USA*, No. 3:10-cv-563 (W.D. Wis. Feb. 9, 2011), ECF 8-1; First Amended Consent Decree, *United States v. Murphy Oil USA*, No. 3:10-cv-563 (W.D. Wis. May 2, 2012), ECF 12.

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⁴ See Flex Permit Part 1 at 1. The Flex Permit allows SRC to submit updates to its application for deviations from the plans and specifications initially approved by the Flex Permit. Flex Permit Part 1, § Z.1.b(3). Under the Flex Permit, SRC is authorized to construct, modify, replace and/or reconstruct any process covered in the permit within 42 months of permit issuance, which lasts until August 2021, with an option for one 18 month extension which lasts until February 2023. SRC may amend its Flex Permit application for any work not already covered.

⁵ See Prevention of Significant Deterioration Air Construction Permit Application Superior Flexibility Project (Nov. 4, 2016) (“Flex Permit Application”) at 2-1.

⁶ See Flex Permit Application at ¶ 1.4.4; *see also* Flex Permit Application – Air Dispersion Modeling Supplement, Rev. 1 (Dec. 2017) (“Air Modeling Supplement”). In addition, The Flex Permit also addressed installation of ultra-

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For the process units covered under the Flex Permit, including the FCCU, SRC conducted air dispersion modeling and BACT analyses during the Flex Permit application process.⁷

the Flex Permit

Ex. 4 CBI

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A. Modeling

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low NO_x burners in the Crude Fractionation and Preflash Heaters, which is unrelated to the facility upgrade project but required by the existing consent decree NO_x reduction requirements. *See* Consent Decree § V.F.

⁷ *See* Air Modeling Supplement, Rev. 1; Flex Permit Application § 7.

⁸ *See* Air Modeling Supplement. Modified sources include Cooling Tower #2, Sulfur Recovery Unit / Tail Gas Treatment Unit Incinerator, Rail Car Loading VCU, and Roadway Emissions Impacts.

⁹ *See* Flex Permit Application at §§ 6.2.8, 6.2.10.

¹⁰ Notably, PM₁₀ emissions were below PSD significance levels. *See* Air Modeling Supplement § 1.6.3.

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B. BACT Analyses

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The authority of a district court to approve such an approach is rooted in the Supreme Court's decision in *Weinberger v. Romero-Barcelo*.¹⁴ In that case, Puerto Rico sued the United States Navy for violating the Clean Water Act (CWA) as a result of its weapons training

¹¹ See Flex Permit Application at § 7.0.

¹² See Flex Permit Application at § 7.11.3.3.

¹³ See Flex Permit Application at §§ 7.9, 7.13. For reference, the Sat Gas Plant only releases fugitive emissions.

¹⁴ 456 U.S. 305 (1982).

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activities on Vieques Island, off Puerto Rico, arguing that the Navy was discharging a pollutant without a National Pollution Discharge Elimination System (NPDES) permit. While the district court found that the Navy's activities were in violation of the CWA, the Supreme Court ultimately ruled that, notwithstanding the fact that Navy's activities were not covered by an NPDES permit, the CWA did not mandate that the district court automatically enjoin the Navy from conducting these activities without a permit.¹⁵ An injunction is fundamentally a discretionary equitable remedy, and the Supreme Court recognized that unless Congress has restricted a district court's jurisdiction in equity, district courts are to employ traditional equitable considerations in deciding whether an injunction is warranted. There are four factors: the risk of irreparable injury to the plaintiff, the adequacy of legal remedies, the balance of harms between the parties, and the public interest in issuing an injunction.¹⁶ The Supreme Court found that because the CWA did not restrict the district court's jurisdiction, the district court should have evaluated these considerations before issuing an injunction. It further concluded that an injunction was not appropriate because the Navy's activities were not, in fact, polluting the surrounding waters and the Navy was going to apply for an NPDES permit as a remedy for the violation.¹⁷

As recognized by the Seventh Circuit, "*Romero-Barcelo* sets forth the test for determining whether Congress has limited the court's discretion by enacting a statute eliminating the traditionally required showing of irreparable harm for preliminary injunctive relief."¹⁸ Therefore, unless otherwise limited by Congress, courts must employ these equitable considerations before enjoining any activities that may be in violation of an environmental statute.¹⁹ Specific to the CAA, courts have not found that Congress has limited their jurisdiction.²⁰ As a result, court-issued injunctions to prohibit future CAA violations are only

¹⁵ *Id.* at 320.

¹⁶ *Id.* at 312.

¹⁷ *Id.* at 313 ("The grant of jurisdiction to ensure compliance with a statute hardly suggests an absolute duty to do so under any and all circumstances, and a federal judge sitting as a chancellor is not mechanically obligated to grant an injunction for every violation of law."); see also *Amoco Prod. Co. v. Village of Gambell, AK*, 480 U.S. 531 (1987) (reaffirming that district courts must balance the equities in deciding whether an immediate injunction is an appropriate remedy for violation of the Alaska National Interest Lands Conservation Act).

¹⁸ See *Bedrossian v. Northwestern Memorial Hosp.*, 409 F.3d 840, 842 (7th Cir. 2005).

¹⁹ Compare *Town of Munster, Ind. v. Sherwin-Williams Co., Inc.*, 27 F.3d 1268 (7th Cir. 1994) (distinguishing *Romero-Barcelo* because CERCLA, unlike the CWA, contains a clear and valid legislative command that restricts the courts' equity jurisdiction) with *State of Wis. v. Weinberger*, 745 F.2d 412 (7th Cir. 1984) (finding that NEPA does not restrict courts' jurisdiction in equity and compel prohibitory injunction).

²⁰ See *Sierra Club v. Franklin County Power of Illinois, LLC*, 546 F.3d 918, 935 (7th Cir. 2009) (considering equitable factors for injunctive relief when enjoining plaintiff from constructing a coal power plant using an expired PSD permit in citizen suit); see also *U.S. v. Marine Shale Processors*, 81 F.3d 1329, 1358 (5th Cir. 1996) (suggesting that Congress may have limited the court's equitable discretion in RCRA, but not in CAA or CWA).

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necessary when the balance of equitable considerations favor doing so. This means that the court would have discretion to approve the proposed consent decree that would allow rebuild without preconstruction permitting.

The discretion conferred by *Romero-Barcelo* extends to pre-construction activity regulated by the PSD program. Section 167 of the Act grants EPA and states discretionary authority to seek injunctive relief *before* construction of a PSD source.²¹ That enforcement discretion includes the authority to decline to take any action at all for alleged PSD violations. For example, in *Sierra Club v. Jackson*, the D.C. Circuit barred a citizen suit challenging EPA's failure to prevent the construction of gas production and electric generating facilities because Section 167 grants EPA the discretionary authority to bring enforcement actions under the CAA's PSD requirements, making such challenges nonjusticiable.²² The court recognized that Section 167 "does not indicate that one enforcement measure should be chosen over another or otherwise provide guidelines that define the limits of the Administrator's discretion."²³ Consistent with these authorities, the United States has previously agreed to consent decrees that rely on Section 167 to resolve alleged PSD claims *before* construction began on a facility just outside the gates of Denali National Park.²⁴

EPA has used this broad authority to pursue settlements through consent decrees even when PSD violations are proven in court. For example, in 2010, in *United States v. Cinergy Corp.*, EPA entered into a consent decree for Duke's Gallagher plant after a jury found it liable for modifying the plant without obtaining a PSD permit.²⁵ However, before the scheduled trial for injunctive relief, EPA entered into a consent decree that resolved Duke's liability and imposed specific requirements for the control of SO₂.²⁶ EPA has also used its discretion to extract civil penalties, without requiring the installation of additional pollution controls, to settle

²¹ See 42 U.S.C. § 7477; *United States v. Xcel Energy*, 759 F. Supp. 2d 1106 (D. Minn. 2010) (granting EPA's motion for preliminary injunction to obtain documents for preconstruction activities, in part, because "Section 167 presents no limitation on when the EPA's authority commences; it merely requires EPA to prevent a non-conforming construction or modification."). Section 167 provides that the "Administrator shall, and a State may, take such measures, including issuance of an order, or seeking injunctive relief, as necessary to prevent the construction or modification of a major emitting facility which does not conform to the requirements of" the PSD program.

²² See *Sierra Club v. Jackson*, 648 F.3d 848 (D.C. Cir. 2011) (recognizing that EPA's decision to pursue enforcement actions under 42 U.S.C. § 7477 is nonjusticiable).

²³ *Id.* at 856.

²⁴ See United States' Unopposed Motion to Enter Consent Decree at 4, *United States v. Golden Valley Elec. Ass'n, et al.*, No. 4:12-cv-0025 (D. Alaska Nov. 14, 2012) (citing *Alaska Dept. of Environmental Conservation v. EPA*, 450 U.S. 461 (2004)).

²⁵ See Partial Consent Decree, *United States v. Cinergy Corp.*, No. 99-cv-01693 (S.D. Ind.) available at <https://www.epa.gov/sites/production/files/documents/dukeenergy-cd.pdf>.

²⁶ *Id.* at § V.

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violations of NSR requirements.²⁷ Ultimately, these cases show that EPA has wide discretion in how it enforces NSR requirements.

EPA's enforcement guidance sets forth the injunctive relief that EPA should seek in settlements of major NSR enforcement actions.²⁸ While EPA recognizes that a source can be compelled to fully comply with the statutory NSR permitting process, it does not require the source to cease all operations until it is fully compliant. Rather, the guidance indicates that a judicially enforceable consent decree should require a minimum level of control that EPA believes ensures BACT-equivalent emissions reductions and that these controls should be captured in a subsequent permit application. Moreover, in addition to resolving the government's claims, a consent decree may also preempt citizen suits related to the enforcement action.²⁹

Both *Romero-Barcelo* and Section 167 of the Act make clear that the United States and the states enjoy significant discretion to facilitate the rebuild using a consent decree. **Ex. 4 CBI**

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The CAA neither abrogates the court's equitable jurisdiction to fashion an appropriate remedy to an alleged CAA violation nor limits EPA's discretionary authority to pursue enforcement actions as it sees fit. Here, the refinery secured the Flex Permit only months before the Incident.

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²⁷ See *United States v. Westvaco Corp.*, No. MJG-00-2602 (D. Md. Aug. 26, 2016) (imposing civil penalties, but no operating restrictions, after paper mill completed major expansion project without a permit).

²⁸ EPA Office of Regulatory Enforcement, Guidance on the Appropriate Injunctive Relief for Violations of Major New Source Review Requirements (Nov. 17, 1998).

²⁹ See 42 U.S.C. § 7604(b)(1)(B) (barring citizen suits when EPA is "diligently prosecuting" a civil action in court); see also Jeffery Wood & Thomas Head, *No Comparison: Barring Citizen Suits in Dual Enforcement Actions*, Natural Resources & Environment (Spring 2004) (discussing the role of CWA citizen suits in government enforcement actions).

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³⁰ These cases highlight instances where the federal government and the courts have provided detailed explanations for why use of a consent decree was appropriate, but they do not constitute an exhaustive list. There are a number of other examples where courts have entered unopposed consent decrees with less detailed reasoning. *See, e.g., U.S. v. Blue Lake Power, LLC*, No. 16-cv-00961-JD, 2017 WL 713145 (N.D. Cal. Feb. 23, 2017) (entering consent decree to remedy alleged PSD permitting violations following plant upgrades when sources committed to BACT-equivalent

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Only months before the Incident, the refinery secured the Flex Permit, a PSD permit that imposed BACT requirements and included air quality analyses supported by detailed air quality modeling.

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1. *Pacific Gas & Electric's Gateway Generating Station*

EPA alleged that PG&E constructed and operated a power plant, the Gateway Generation Station, in violation of PSD requirements because the 2001 PSD permit authorizing construction had expired before construction commenced. The parties entered into settlement negotiations, and EPA filed a proposed CD along with its Complaint in the Northern District of California. The initial CD imposed NO_x and CO reductions on PG&E in lieu of requiring PG&E to obtain a new PSD permit. In response to public comments, the parties rescinded the proposed CD and put forth a proposed second amended CD that had tighter CO controls and additional restrictions on SO₂ and PM₁₀ emissions.³¹ Rather than obtaining a new PSD permit, PG&E was required to amend its operating permit with the state to incorporate the emissions limitations and requirements set forth in the CD.

The court found that the settlement, which did not require PG&E to obtain a new PSD permit, was substantively fair because the second amended CD imposed the same or similar emissions limits that would have been contained in a new PSD permit.³² The court stated that while the interveners would prefer PG&E to have gone through a new permitting process, "there is nothing that mandates such a process."³³ Notably, the court recognized that EPA had consistently structured PSD settlements this way and cited the following language from EPA's motion:

All such cases basically flow from the same contested premise that the defendant failed to obtain a proper PSD permit before constructing a new facility or modifying an existing one. In every such case, a remedy for the alleged violation could be the straightforward requirement to obtain a new PSD permit. The United States has not adopted that course in any settlement involving a power plant.

emissions reductions and amendment of the Title V permit to reflect such reductions); *U.S. v. Nevada Power Company*, No. 2:07-CV-00771-LDG-GWF, (D. Nev. Aug. 8, 2007) (Order, Dkt. No. 8) (same).

³¹ Second Amended Consent Decree, *United States v. Pac. Gas and Elec. Co.*, No. 3:09-cv-04503-SI (N.D. Cal. Oct. 12, 2010).

³² See *United States v. Pac. Gas and Elec. Co.*, 776 F. Supp. 2d 1007, 1027 (N.D. Cal. 2011).

³³ *Id.*

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CONTAINS CONFIDENTIAL BUSINESS INFORMATION**



Instead, all such settlements impose the actual emission limits and other restrictions the United States regards as the approximate equivalent to the substantive result of a new permitting process. The United States' reason in settling in this fashion is that it guarantees results—actual, appropriate, judicially enforceable emission reductions—without the delay and uncertainty entailed when directing a source to engage in the full-blown proceedings involved in obtaining a new PSD permit.³⁴

2. *Alcoa's Rockdale Facility*

The Alcoa story is complicated, but here, too, EPA ultimately allowed—and courts approved—construction of a new coal-fired power plant without the need to obtain a PSD permit. In the late 1980s, Alcoa undertook a series of projects, called the Betterment Program, designed to extend the then-expiring useful life of three lignite-fired electric generating units at the Rockdale facility in Milam County, Texas (Units 1, 2, and 3).³⁵ Another company, TXU Corporation, owned a fourth unit at Rockdale (Unit 4). Both the United States and environmental groups sued Alcoa for undertaking the Betterment Program, claiming that it represented a major modification of Units 1-3 without obtaining PSD permits.³⁶ The court signed a consent decree resolving these claims on July 28, 2003.³⁷

The consent decree gave Alcoa a choice: it could update Units 1-3 with pollution control equipment, shut down Units 1-3, or shut down the units and build a replacement unit (Unit 5).³⁸ Either way, Alcoa would be shielded from PSD liability and would not need to obtain a PSD permit for actions it took to comply with the consent decree as long as it met the emission limitations in the consent decree.³⁹ Alcoa chose to build the new replacement unit.⁴⁰ The government and environmental group plaintiffs were presumably willing to agree to this PSD-permit-free new construction in light of the perceived trade-off—they would get “cleaner” electricity from the Unit 5 plant with more stringent emissions controls, and the allegedly problematic Units 1-3 would be shut down.

³⁴ *Id.* (quoting United States' Memorandum in Support of Motion to Enter Amended Consent Decree at 39, *United States v. Pac. Gas and Elec. Co.*, No. 3:09-cv-04503-SI (N.D. Cal. May 13, 2010)).

³⁵ See United States' Motion to Enter Consent Decree at 3, *United States, et al. v. Alcoa, Inc.*, No. 1:01-cv-00881 (W.D. Tex. July 11, 2003) (Motion to Enter).

³⁶ Motion to Enter at 1.

³⁷ Consent Decree, *United States, et al. v. Alcoa, Inc.*, No. 1:01-cv-00881 (W.D. Tex. July 11, 2003) (Alcoa Consent Decree).

³⁸ Alcoa Consent Decree at ¶ 49.

³⁹ Alcoa Consent Decree at ¶¶ 63, 95-97.

⁴⁰ *United States v. Alcoa*, 533 F.3d 278, 282 (5th Cir. 2008).

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Concerns about circumventing the PSD requirements resurfaced, however, when TXU became involved with the construction of Unit 5. Specifically, Alcoa contracted with TXU to build the replacement unit, and TXU then joined the consent decree as a party. Simultaneously, TXU agreed to install SCR technology on one of its own units (Unit 4) in exchange for also being shielded from PSD liability for constructing Unit 5. The government agreed to add TXU as a party to the consent decree and to issue a stipulated order with more stringent requirements than in the consent decree.⁴¹ But environmental groups objected. Alcoa and TXU were behind schedule on Unit 5, and they called the arrangement a “shady, back-room deal” that should have required a new PSD permit.⁴² The United States countered that, while the court could order more stringent relief, the stipulated order “secure[d] relief that is more protective than the original Consent Decree, and ... avoid[ed] the uncertainties associated with subjecting the Replacement Sandow Unit to a state permitting process outside the coverage of this Consent Decree.”⁴³

The courts sided with EPA, Alcoa, and TXU. The district court held Alcoa in contempt for falling behind schedule and imposed stipulated penalties and additional emissions limitations. It did not, however, require the parties to obtain a PSD permit because (1) the terms of the stipulated order were more stringent than the original consent decree and (2) the Texas Council on Environmental Quality had already approved an extension to the state-level required permit under the state’s alternative PSD program that had older BACT limits.⁴⁴ The Fifth Circuit found no clear error in the district court’s findings that “the additional remedies imposed ... by the stipulated order, including a pollution reduction unit, an earlier shut-down deadline, and more stringent emissions limitations than originally provided for ..., reduced more emissions than did the original [plan] and imposed substantial burdens on Alcoa” and did not find any error with the court not requiring a PSD permit for the new replacement unit.⁴⁵ In the end, the new Unit 5 was built without Alcoa or TXU obtaining a PSD permit but under agreed-upon terms that EPA believed would fairly and significantly reduce emissions and improve the environment.

3. *Golden Valley’s Healy Unit*

In 2012, Golden Valley Electric Association (GVEA) and Alaska Industrial Development and Export Authority (AIDEA) announced their intention to reactivate a coal-fired electric

⁴¹ 71 Fed. Reg. 67640 (Nov. 22, 2006) (Stipulated Order); *United States v. Alcoa*, 2007 WL 628710 (upholding Stipulated Order).

⁴² <https://www.edf.org/news/txu-alcoa-and-feds-attempt-end-run-around-clean-air-act>.

⁴³ *United States’ Reply to Citizen Groups’ Opposition*, *United States v. Alcoa, Inc.*, No. 03-cv-222, Dkt. No. 116, at 6 (W.D. Tex. Jan. 11, 2007).

⁴⁴ *United States, et al. v. Alcoa, Inc.*, No. 03-cv-222, 2007 WL 5272187 at *5 and *9 (W.D. Tex. Mar. 14, 2007).

⁴⁵ *Alcoa*, 533 F.3d at 288-89.

**FRE RULE 408 / WIS. STAT. § 904.09 - SETTLEMENT CONFIDENTIAL
CONTAINS CONFIDENTIAL BUSINESS INFORMATION**



generating unit in Healy, Alaska.⁴⁶ At the time, it was unclear whether EPA's Reactivation Policy⁴⁷ applied to the unit and might trigger PSD permitting requirements. Environmental groups and EPA believed that GVEA/AIDEA needed to obtain a PSD permit. After GVEA, AIDEA, and the environmental groups failed to reach a settlement on the restart, GVEA and AIDEA worked with the federal government to explore a consent decree that would allow restart of the unit without a PSD permit. Ultimately, EPA agreed to resolve the PSD permitting issue by entering into a consent decree that allowed for the restart without requiring GVEA/AIDEA to undergo the time-consuming PSD permitting process.

At the end of the process, the government filed a proposed consent decree that had been negotiated between GVEA, AIDEA, and the United States, resolving the permitting and BACT issues and including many of the stipulations that the environmental groups had wanted. After a 30-day public comment period, the court approved the consent decree.⁴⁸ It required GVEA and AIDEA to meet emissions limitations and to install controls addressing NO_x, SO₂, particulate matter, and mercury, and to undertake a supplemental environmental project. It also spelled out a compliance schedule and stipulated penalties for violations. GVEA and AIDEA also agreed to incorporate the emissions limit into the plant's Title V operating permit by obtaining a minor permit or through a site-specific revision to Alaska's SIP. A PSD permit was not required and GVEA and AIDEA were allowed to move forward with their planned restart.

V. Conclusion

Ex. 4 CBI

⁴⁶ See Complaint at ¶ 25, *United States v Golden Valley Elec. Ass'n, et al.*, No. 4:12-cv-0025 (D. Alaska Oct. 2, 2012) (Healy Complaint).

⁴⁷ Under the Reactivation Policy, EPA would presume that a major stationary source that has been shut down for two years or more is intended to be permanently shut down, and so a restart would trigger PSD requirements unless certain conditions were met.

⁴⁸ See Consent Decree, *United States v Golden Valley Elec. Ass'n, et al.*, No. 4:12-cv-0025 (D. Alaska Nov. 19, 2012 (as entered)) (Healy Consent Decree).

**FRE RULE 408 / WIS. STAT. § 904.09 - SETTLEMENT CONFIDENTIAL
CONTAINS CONFIDENTIAL BUSINESS INFORMATION**



Ex. 4 CBI

**FRE RULE 408 / WIS. STAT. § 904.09 - SETTLEMENT CONFIDENTIAL
CONTAINS CONFIDENTIAL BUSINESS INFORMATION**

14

ACTIVE 237475445



Ex. 4 CBI

**FRE RULE 408 / WIS. STAT. § 904.09 - SETTLEMENT CONFIDENTIAL
CONTAINS CONFIDENTIAL BUSINESS INFORMATION**



II. **Attachment II – Simplified Refinery Process Flow Diagram**

Ex. 4 CBI

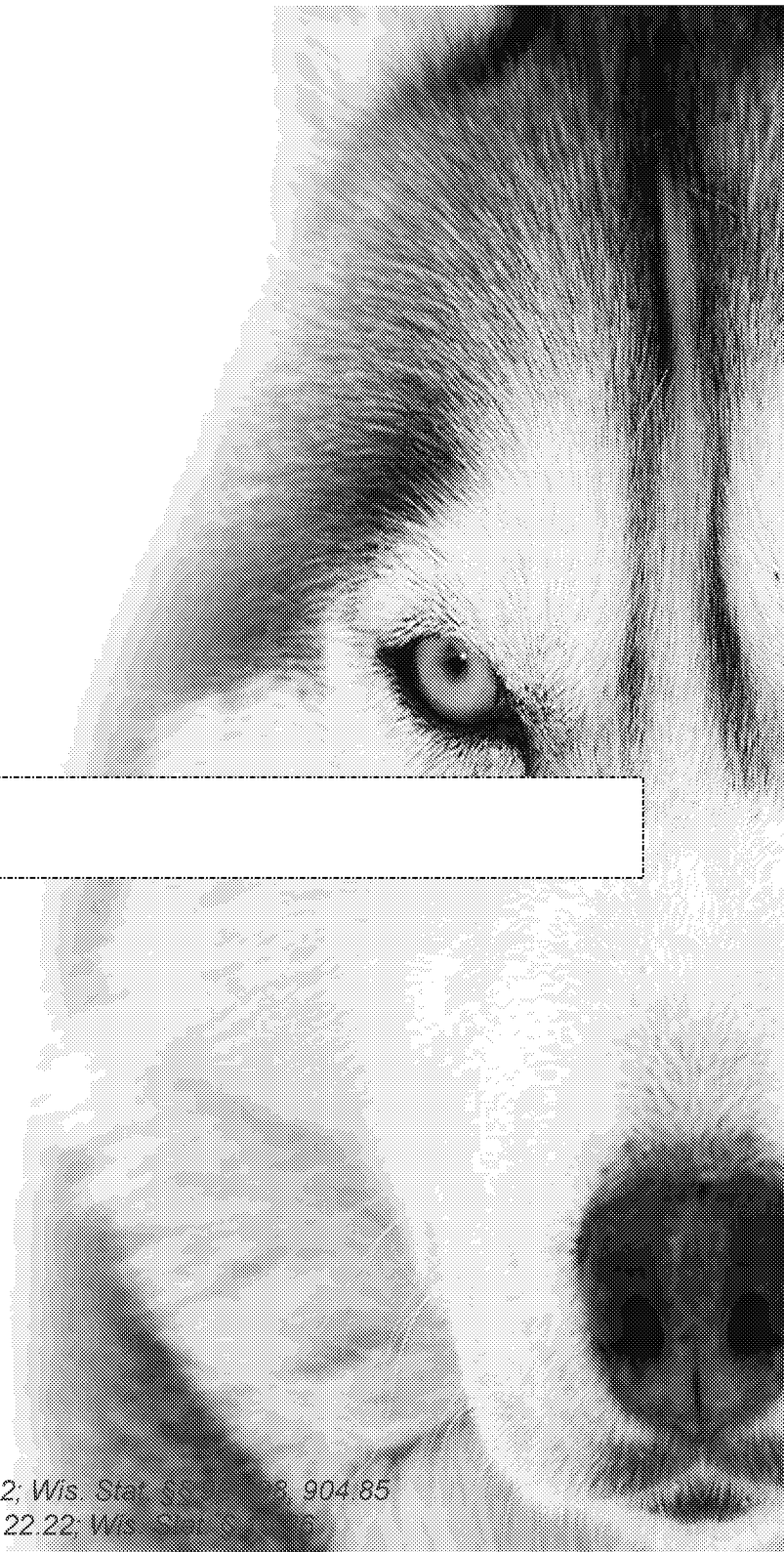
**FRE RULE 408 / WIS. STAT. § 904.09 - SETTLEMENT CONFIDENTIAL
CONTAINS CONFIDENTIAL BUSINESS INFORMATION**

16

ACTIVE 237475445

ATTACHMENT

2



Ex. 4 CBI

March 5, 2019

Confidential Settlement Communication — FRE 408; 40 C.F.R. § 22.22; Wis. Stat. § 55.07(2), 904.85
Contains CBI and Trade Secrets — 5 U.S.C. § 552; 40 C.F.R. § 22.22; Wis. Stat. § 19.46



Ex. 4 CBI

*Confidential Settlement Communication — FRE 408; 40 C.F.R. § 22.22; Wis. Stat. §§ 904.08, 904.85
Contains CBI and Trade Secrets — 5 U.S.C. § 552; 40 C.F.R. § 22.22; Wis. Stat. § 19.36*



Ex. 4 CBI

*Confidential Settlement Communication — FRE 408; 40 C.F.R. § 22.22; Wis. Stat. §§ 904.08, 904.85
Contains CBI and Trade Secrets — 5 U.S.C. § 552; 40 C.F.R. § 22.22; Wis. Stat. § 19.36*



Ex. 4 CBI

*Confidential Settlement Communication — FRE 408; 40 C.F.R. § 22.22; Wis. Stat. §§ 904.08, 904.85
Contains CBI and Trade Secrets — 5 U.S.C. § 552; 40 C.F.R. § 22.22; Wis. Stat. § 19.36*



Ex. 4 CBI

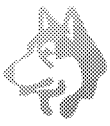
*Confidential Settlement Communication — FRE 408; 40 C.F.R. § 22.22; Wis. Stat. §§ 904.08, 904.85
Contains CBI and Trade Secrets — 5 U.S.C. § 552; 40 C.F.R. § 22.22; Wis. Stat. § 19.36*



PG&E

- PG&E's predecessor received PSD permit from BAAQMD for generating station
- Construction began but ceased for more than 18 months
- EPA revoked delegation to BAAQMD for PSD program, but BAAQMD subsequently issued a permit extension
- PG&E constructed and operated power plant after PSD permit expired
- Disputes over state authority to issue permit, extend term of permit, and authority to administer permit

United States v. Pac. Gas and Elec. Co., No. 3:09-cv-04503-SI (N.D. Cal. Sept. 24, 2009)



PG&E – Consent Decree

- The CD contained tighter emissions controls but allowed operation of plant without new PSD permit
- Requirements were incorporated into Title V permit
- Non-profit objected, and N.D. Cal. approved CD
 - “While CBE would prefer that PG&E be required to go through a new permitting process, there is nothing that mandates such a process, and the Court finds the United States’ reasons for structuring the settlement in this fashion to be reasonable.”

United States v. Pac. Gas and Elec. Co., 776 F. Supp. 2d 1007, 1027 (N.D. Cal. 2011)

Confidential Settlement Communication — FRE 408; 40 C.F.R. § 22.22; Wis. Stat. §§ 904.08, 904.85
Contains CBI and Trade Secrets — 5 U.S.C. § 552; 40 C.F.R. § 22.22; Wis. Stat. § 19.36



PG&E – US' Position

- The court quoted the US' position that CDs do not need to require PSD permits (776 F.Supp.2d at 1027)

All such cases basically flow from the same contested premise that the defendant failed to obtain a proper PSD permit before constructing a new facility or modifying an existing one. In *every* such case, a remedy for the alleged violation *could* be the straightforward requirement to obtain a new PSD permit. The United States has not adopted that course in any settlement involving a power plant. Instead, all such settlements impose the actual emission limits and other restrictions the United States regards as the approximate equivalent to the substantive result of a new permitting process. The United States's reason in settling in this fashion is that it guarantees results – actual, appropriate, judicially enforceable emission reductions – without the delay and uncertainty entailed when directing a source to engage in the full-blown proceedings involved in obtaining a new PSD permit.



Alcoa

- Alcoa completed upgrades to extend useful life of three electric generating units
- US alleged changes to units resulted in substantial increases in emissions
- US asserted upgrades were major modifications requiring PSD permit

United States, et al., v. Alcoa, Inc., No. 1:01-cv-00881 (W.D. Tex. Dec. 26, 2001)



Alcoa – Consent Decree

- CD allowed options for compliance:
 - Upgrade three units with pollution controls
 - Shut down units and replace with new unit
- Alcoa chose to construct new unit, and PSD permit was not required by CD
- Alcoa and co-owner TXU contracted to construct new unit
- TXU joined the CD and a stipulated order with more stringent requirements



Alcoa – Consent Decree

- CD did not require PSD permit for work under the CD

95. Except as this Consent Decree requires a State Permitting Process for the replacement of the Existing Sandow Units with Replacement Sandow Units, this Consent Decree shall not be construed to require Alcoa to apply for or obtain a permit pursuant to Parts C and D in Title I of the Clean Air Act for any work performed by Alcoa within the scope of the Resolution of Claims provisions of Paragraphs 96 and 97, below. Nothing in this Consent Decree shall be construed to relieve Alcoa of any obligation to comply with Title V of the Clean Air Act and TCEQ's implementing regulations.



Alcoa – Court Approval

- NGOs objected to construction of new unit without PSD permit
- District court and Fifth Circuit approved CD with stipulated order and allowed construction without PSD permit
 - “[T]he district court found, without clear error, that the additional remedies imposed under Option B by the stipulated order, including a pollution reduction unit, an earlier shut-down deadline, and more stringent emissions limitations than originally provided for in the option, reduced more emissions than did the original Option Band imposed substantial burdens on Alcoa.”
United States v. Alcoa, Inc., 533 F.3d 278, 287-88 (5th Cir. 2008)



Golden Valley

- Golden Valley Electric Association planned to reactivate coal plant in Alaska with physical modifications and emission control upgrades
- Complaint alleged that construction and restart required PSD permit
- CD resolved potential PSD liability
- Golden Valley restarted coal plant without PSD permit

United States v. Golden Valley Elec. Ass'n, et al., No. 4:12-cv-0025 (D. Alaska Nov. 14, 2012)

Confidential Settlement Communication — FRE 408; 40 C.F.R. § 22.22; Wis. Stat. §§ 904.08, 904.85
Contains CBI and Trade Secrets — 5 U.S.C. § 552; 40 C.F.R. § 22.22; Wis. Stat. § 19.36



Golden Valley

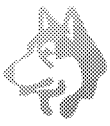
- Golden Valley announced intention to construct

23. Unit 2 previously went through PSD review and received an Air Quality Control Permit issued in 1993 and amended in 1994. This PSD review process included BACT rates for nitrogen oxide (“NO_x”), sulfur dioxide (“SO₂”), and particulate matter (“PM”). Following this permitting process, Unit 2 was constructed in 1997.

24. Unit 2 has not been operated since 1998-1999.

25. Defendants have recently announced their intention to restart and/or reactivate Unit 2.

26. This project requires a number of physical or operational changes at Unit 2, which Defendants estimated to cost approximately \$16 million and includes, but is not limited to, adding new equipment to move coal from the coal storage area to Unit #2; adding traveling screen to the cooling water intake; replacing parts of the coal pulverizers; and replacing undersized electrical cables with larger cables.



Golden Valley – Resolution of Claims

- CD resolved claims related to modification and restart

94. Entry of this Consent Decree shall resolve all civil claims of the United States against AIDEA and GVEA that are (1) alleged in the Complaint, specifically claims under Section 167 of the Act, 42 U.S.C. § 7477, that arise from the proposed modification, proposed restart, and/or proposed reactivation of Unit 2 at the Healy Power Plant, and (2) claims that arise, prior to the Date of Lodging of this Consent Decree, from the proposed modification, proposed restart, and/or proposed reactivation of Unit 2 at the Healy Power Plant under any or all of: (a) Part C and D of Subchapter I of the Act, 42 U.S.C. §§ 7470-7492, 7501-7515, and the implementing PSD and Nonattainment NSR provisions of the Alaska SIP; (b) Section 111 of the Act, 42 U.S.C. § 7411, and 40 C.F.R. § 60.14; and (c)



Wisconsin Power and Light

- US and Sierra Club filed claims related to coal fired units, alleging major modifications without permits and controls
- System-wide settlement imposed requirements to repower, retire, refuel or control

Sierra Club v. Wis. Power & Light Co., 13-cv-00265 (W.D. Wis. Apr. 22, 2013)



Wisconsin Power and Light

- CD authorized modification of units in the system

149. Claims of the United States Based on Modifications after the Date of Lodging of this Consent Decree. Entry of this Consent Decree also shall resolve all civil claims of the United States that arise from a modification commenced before December 31, 2018, for pollutants regulated under Part C or D of Subchapter I of the CAA and under regulations, which are promulgated thereunder as of the Date of Lodging, where:

- a. such modification is commenced at any System Unit after the Date of Lodging of this Consent Decree, or
- b. such modification is one this Consent Decree expressly directs Defendants to undertake.



Wisconsin Power and Light

- CD expressly did not require PSD permitting for modifications

199. Notwithstanding the previous Paragraphs, nothing in this Consent Decree shall be construed to require one or more Unit Owners or the Unit Operator to apply for, amend, or obtain a PSD or Nonattainment NSR permit or permit modification for any physical change in, or any change in the method of operation of, any System Unit that would give rise to claims resolved by Section XI (Resolution of Claims) of this Consent Decree.



Questions and Discussion

*Confidential Settlement Communication — FRE 408; 40 C.F.R. § 22.22; Wis. Stat. §§ 904.08, 904.85
Contains CBI and Trade Secrets — 5 U.S.C. § 552; 40 C.F.R. § 22.22; Wis. Stat. § 19.36*

ATTACHMENT

3



Superior Refining Company

Ex. 4 CBI

With Wisconsin Department of Justice

March 11, 2019

*Confidential Settlement Communication — FRE 408; 40 C.F.R. § 22.22; Wis. Stat. §§ 19.38, 904.85
Contains CBI and Trade Secrets — 5 U.S.C. § 552; 40 C.F.R. § 22.22; Wis. Stat. § 19.38*





Background

- SRC has a critical presence in Northwest Wisconsin
 - 325 employees and local contractors
 - \$100 M local spending
 - Roughly 8X multiplier for indirect economic impacts
- Critical supplier of transportation fuel and asphalt
 - Asphalts costs increased 33% since incident



Recent Environmental Permitting

- In February 2018, WDNR issued SRC a comprehensive PSD air permit authorizing construction of various modifications
 - State-of-the-art emission controls (i.e., BACT)
 - Comprehensive air quality analysis



April 2018 Incident

- April 26, 2018
- Refinery was shutting down for turnaround
- Explosion occurred in Fluid Catalytic Cracking Unit (“FCCU”)
 - Fragment struck asphalt storage tank
 - ~17k barrels of asphalt released and caught on fire
- Fire put out same day by SRC emergency response team with local first responders
- Evacuation order issued but lifted next morning
- Immediate decision to pursue Rebuild as a refinery



Ex. 4 CBI

*Confidential Settlement Communication — FRE 408; 40 C.F.R. § 22.22; Wis. Stat. §§ 904.08, 904.85
Contains CBI and Trade Secrets — 5 U.S.C. § 552; 40 C.F.R. § 22.22; Wis. Stat. § 19.36*



Ex. 4 CBI

*Confidential Settlement Communication — FRE 408; 40 C.F.R. § 22.22; Wis. Stat. §§ 904.08, 904.85
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Ex. 4 CBI

*Confidential Settlement Communication — FRE 408; 40 C.F.R. § 22.22; Wis. Stat. §§ 904.08, 904.85
Contains CBI and Trade Secrets — 5 U.S.C. § 552; 40 C.F.R. § 22.22; Wis. Stat. § 19.36*



Ex. 4 CBI

*Confidential Settlement Communication — FRE 408; 40 C.F.R. § 22.22; Wis. Stat. §§ 904.08, 904.85
Contains CBI and Trade Secrets — 5 U.S.C. § 552; 40 C.F.R. § 22.22; Wis. Stat. § 19.36*



Ex. 4 CBI

*Confidential Settlement Communication — FRE 408; 40 C.F.R. § 22.22; Wis. Stat. §§ 904.08, 904.85
Contains CBI and Trade Secrets — 5 U.S.C. § 552; 40 C.F.R. § 22.22; Wis. Stat. § 19.36*



Conclusion

- Q&A
- Next Steps

*Confidential Settlement Communication — FRE 408; 40 C.F.R. § 22.22; Wis. Stat. §§ 904.08, 904.85
Contains CBI and Trade Secrets — 5 U.S.C. § 552; 40 C.F.R. § 22.22; Wis. Stat. § 19.36*



Questions and Discussion

*Confidential Settlement Communication — FRE 408; 40 C.F.R. § 22.22; Wis. Stat. §§ 904.08, 904.85
Contains CBI and Trade Secrets — 5 U.S.C. § 552; 40 C.F.R. § 22.22; Wis. Stat. § 19.36*

Message

From: Hetu, Dennis [dhetu@continentalcarbon.com]
Sent: 5/24/2017 2:59:17 PM
To: jeffrey.wood@usdoj.gov; Brown, Byron [brown.byron@epa.gov]; Gunasekara, Mandy [Gunasekara.Mandy@epa.gov]
CC: sboxerman@sidley.com
Subject: RE: Thank you - follow-up
Attachments: Letter to DOJ EPA_052417.pdf

Dear ALL

Meant to say - "" Livelihood ""

And that is why I am an Engineer and not an English major. Hope you got a small laugh today.

Cheers

Dennis

This message and any files transmitted with it are intended exclusively for the intended recipient, and may contain confidential and/or privileged information. If you are not the intended recipient, please immediately notify the sender by replying to this message, and delete the message and any/all attachments.

From: Hetu, Dennis
Sent: Wednesday, May 24, 2017 9:46 AM
To: jeffrey.wood@usdoj.gov; brown.byron@epa.gov; gunasekara.mandy@epa.gov
Cc: sboxerman@sidley.com; Hetu, Dennis <dhetu@continentalcarbon.com>
Subject: Thank you - follow-up

Thank You for your time and continued efforts to ensure the lively hood of the CCC business.

With all due respect

Dennis J. Hetu

President
Continental Carbon Company
Office# 281-647-3841
Cell# Ex. 6 Personal Privacy (PP)

This message and any files transmitted with it are intended exclusively for the intended recipient, and may contain confidential and/or privileged information. If you are not the intended recipient, please immediately notify the sender by replying to this message, and delete the message and any/all attachments.

Appointment

From: Shanedda.Bogan@usdoj.gov [Shanedda.Bogan@usdoj.gov]
Sent: 4/25/2017 6:55:06 PM
To: bruce.gelber@usdoj.gov; Schwab, Justin [schwab.justin@epa.gov]; Brown, Byron [brown.byron@epa.gov]; Gunasekara, Mandy [Gunasekara.Mandy@epa.gov]; karen.dworkin@usdoj.gov; Thomas.Carroll@USDOJ.GOV; Dunn, Jason (ENRD) [Jason.Dunn@usdoj.gov]; Abend, Katherine (ENRD) [Katherine.Aabend@usdoj.gov]; Quinn, Elias (ENRD) [Elias.Quinn@usdoj.gov]; Cozad, David [Cozad.David@epa.gov]; Brooks, Phillip [Brooks.Phillip@epa.gov]; Ortega, Kellie [Ortega.Kellie@epa.gov]; Welton, Patricia [Welton.Patricia@epa.gov]; Thompson, Steve [thompson.steve@epa.gov]; dhetu@continentalcarbon.com; dhuntley@continentalcarbon.com; sboxerman@sidley.com

Subject: Continental Meeting (Carbon Black)

Location: Department of Justice, 950 Pennsylvania Ave., NW Room 2143 / Ex. 6 Personal Privacy (PP) Conference Code: Ex. 6 Personal Privacy (PP)

Start: 5/17/2017 8:00:00 PM

End: 5/17/2017 9:00:00 PM

Show Time As: Tentative

Recurrence: (none)

Appointment

From: Wood, Jeffrey (ENRD) [Jeffrey.Wood@usdoj.gov]
Sent: 4/25/2017 6:55:12 PM
To: Wood, Jeffrey (ENRD) [Jeffrey.Wood@usdoj.gov]; bruce.gelber@usdoj.gov; Schwab, Justin [schwab.justin@epa.gov]; Brown, Byron [brown.byron@epa.gov]; Gunasekara, Mandy [Gunasekara.Mandy@epa.gov]; karen.dworkin@usdoj.gov; Thomas.Carroll@USDOJ.GOV; Dunn, Jason (ENRD) [Jason.Dunn@usdoj.gov]; Abend, Katherine (ENRD) [Katherine.Aabend@usdoj.gov]; Quinn, Elias (ENRD) [Elias.Quinn@usdoj.gov]; Cozad, David [Cozad.David@epa.gov]; Brooks, Phillip [Brooks.Phillip@epa.gov]; Ortega, Kellie [Ortega.Kellie@epa.gov]; Welton, Patricia [Welton.Patricia@epa.gov]; Thompson, Steve [thompson.steve@epa.gov]; dhetu@continentalcarbon.com; dhuntley@continentalcarbon.com; sboxerman@sidley.com

Subject: Continental Meeting (Carbon Black)

Location: Department of Justice, 950 Pennsylvania Ave., NW Room 2143 / Ex. 6 Personal Privacy (PP) Conference Code: Ex. 6 Personal Privacy (PP)

Start: 5/17/2017 8:00:00 PM

End: 5/17/2017 9:00:00 PM

Show Time As: Busy

Recurrence: (none)

Message

From: Wehrum, William L. [wwehrum@hunton.com]
Sent: 8/28/2017 4:36:37 PM
To: Jackson, Ryan [jackson.ryan@epa.gov]
Subject: RE: It's your friendly neighborhood ethics official
Attachments: img-8280833-0001-c.pdf

Ryan – Here's the signed letter.

From: Fugh, Justina [mailto:Fugh.Justina@epa.gov]
Sent: Thursday, August 24, 2017 2:39 PM
To: Wehrum, William L.
Subject: It's your friendly neighborhood ethics official

Hi Bill,

I just heard from the Office of Government Ethics that they heard from the White House that we may be able to move forward on your ethics agreement. What I understand is

Ex. 5 DPP/ACP/Pres. Comm. Priv.

Ex. 5 DPP/ACP/Pres. Comm. Priv.

Ex. 5 DPP/ACP/Pres. Comm. Priv.

If it is, then please sign and return the revised ethics agreement.

I also updated your financial disclosure report in INTEGRITY. To finalize your 278, please look at Part 2, line 16 and give me the range for that anticipated discretionary partnership distribution. You can make that change yourself in INTEGRITY or you can just tell me and I'll make the change for you.

I hope you've been able to enjoy the summer and the relatively mild weather today.

Best,
Justina

Justina Fugh | Senior Counsel for Ethics | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308 North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the zip code) | phone 202-564-1786 | fax 202-564-1772

Mr. Kevin S. Minoli
Designated Agency Ethics Official
U.S. EPA (2310A)
1200 Pennsylvania Avenue, NW
Washington, DC 20460

Dear Mr. Minoli:

The purpose of this letter is to describe the steps that I will take to avoid any actual or apparent conflict of interest in the event that I am confirmed for the position of Assistant Administrator for the Office of Air and Radiation of the United States Environmental Protection Agency.

As required by 18 U.S.C. § 208(a), I will not participate personally and substantially in any particular matter in which I know that I have a financial interest directly and predictably affected by the matter, or in which I know that a person whose interests are imputed to me has a financial interest directly and predictably affected by the matter, unless I first obtain a written waiver, pursuant to 18 U.S.C. § 208(b)(1), or qualify for a regulatory exemption, pursuant to 18 U.S.C. § 208(b)(2). I understand that the interests of the following persons are imputed to me: any spouse or minor child of mine; any general partner of a partnership in which I am a limited or general partner; any organization in which I serve as officer, director, trustee, general partner or employee; and any person or organization with which I am negotiating or have an arrangement concerning prospective employment.

Upon confirmation, I will resign from my position with the law firm of with Hunton & Williams LLP. I currently have a capital account with the firm, and I will receive a refund of that account after my resignation. Until I have received this refund, I will not participate personally and substantially in any particular matter that to my knowledge has a direct and predictable effect on the ability or willingness of the firm to pay this refund, unless I first obtain a written waiver, pursuant to 18 U.S.C. 208(b)(1). I will continue to receive my monthly draw at the current rate until I resign from the law firm. I will not qualify for any additional partnership payments. If the law firm decides to pay me a discretionary partnership distribution for work I performed during the firm's fiscal year ending March 31, 2018, I will not accept that distribution and will forfeit it, unless I receive it before I assume the duties of the position of Assistant Administrator for the Office of Air and Radiation. If I receive the discretionary partnership distribution, I will not participate personally and substantially in any particular matter involving specific parties in which I know the law firm is a party or represents a party for a period of two years from the date on which I receive the distribution. If I do not receive the distribution, I will not participate personally and substantially in any particular matter involving specific parties in which I know the firm is a party or represents a party for a period of one year from the date of my resignation, unless I am first authorized to participate, pursuant to 5 C.F.R. § 2635.502(d). In addition, I will not participate personally and substantially in any particular matter involving specific parties in which I know a former client of mine is a party or represents a party for a period of one year after I last provided service to that client, unless I am first authorized to participate, pursuant to 5 C.F.R. § 2635.502(d).

If I have a managed account or otherwise use the services of an investment professional during my appointment, I will ensure that the account manager or investment professional obtains my prior approval on a case-by-case basis for the purchase of any assets other than cash, cash equivalents, investment funds that qualify for the exemption at 5 C.F.R. § 2640.201(a), obligations of the United States, or municipal bonds.

I will meet in person with you during the first week of my service in the position of Assistant Administrator in order to complete the initial ethics briefing required under 5 C.F.R. § 2638.305. Within 90 days of my confirmation, I will document my compliance with this ethics agreement by notifying you in writing when I have completed the steps described in this ethics agreement.

I understand that as an appointee I will be required to sign the Ethics Pledge (Exec. Order No. 13770) and that I will be bound by the requirements and restrictions therein in addition to the commitments I have made in this ethics agreement.

I have been advised that this ethics agreement will be posted publicly, consistent with 5 U.S.C. § 552, on the website of the U.S. Office of Government Ethics with ethics agreements of other Presidential nominees who file public financial disclosure reports.

Sincerely yours,

A handwritten signature in dark ink, appearing to read 'W L Wehrum', followed by a long horizontal flourish.

William L. Wehrum

8-28-17

Appointment

From: Broome, Shannon S. [SBroome@hunton.com]
Sent: 7/17/2017 5:48:00 PM
To: Baptist, Erik [baptist.erik@epa.gov]; Schwab, Justin [schwab.justin@epa.gov]; Knauss, Chuck [CKnauss@hunton.com]; Jacobi, Patrick R. (ENRD) [Patrick.R.Jacobi@usdoj.gov]

Subject: Canceled: Discussion

Location: Ex. 6 Personal Privacy (PP) CODE Ex. 6 Personal Privacy (PP)

Start: 7/17/2017 7:00:00 PM
End: 7/17/2017 7:30:00 PM
Show Time As: Free

Importance: High

Recurrence: (none)

Appointment

From: Wood, Jeffrey (ENRD) [Jeffrey.Wood@usdoj.gov]
Sent: 3/22/2017 2:49:31 PM
To: Wood, Jeffrey (ENRD) [Jeffrey.Wood@usdoj.gov]; Schwab, Justin [schwab.justin@epa.gov];
wwehrum@hunton.com; bruce.gelber@usdoj.gov; karen.dworkin@usdoj.gov; Thomas.Carroll@USDOJ.GOV; Abend,
Katherine (ENRD) [Katherine.Aabend@usdoj.gov]; Dunn, Jason (ENRD) [Jason.Dunn@usdoj.gov]; Brooks, Phillip
[Brooks.Phillip@epa.gov]; Ortega, Kellie [Ortega.Kellie@epa.gov]; Christian.Eggert@orioncarbons.com;
Mark.Peters@orioncarbons.com; jimmy.boyd@orioncarbons.com; DFriedland@bdlaw.com; RCarra@bdlaw.com;
Chatfield, Ethan [chatfield.ethan@epa.gov]; Wagner, William [wagner.william@epa.gov]; Welton, Patricia
[Welton.Patricia@epa.gov]; Thompson, Steve [thompson.steve@epa.gov]
Subject: DOJ/EPA Meeting w/Orion Engineered Carbons
Location: Department of Justice, 950 Pennsylvania Ave., NW Room 2143 / [Ex. 6 Personal Privacy (PP)] Conference code: [Ex. 6 Personal Privacy (PP)]
Start: 4/12/2017 1:00:00 PM
End: 4/12/2017 2:00:00 PM
Show Time As: Busy

Recurrence: (none)

Appointment

From: Wood, Jeffrey (ENRD) [Jeffrey.Wood@usdoj.gov]
Sent: 3/22/2017 2:49:31 PM
To: Wood, Jeffrey (ENRD) [Jeffrey.Wood@usdoj.gov]; Schwab, Justin [schwab.justin@epa.gov];
wwehrum@hunton.com; bruce.gelber@usdoj.gov; karen.dworkin@usdoj.gov; Thomas.Carroll@USDOJ.GOV; Abend,
Katherine (ENRD) [Katherine.Aabend@usdoj.gov]; Dunn, Jason (ENRD) [Jason.Dunn@usdoj.gov]; Brooks, Phillip
[Brooks.Phillip@epa.gov]; Ortega, Kellie [Ortega.Kellie@epa.gov]; Christian.Eggert@orioncarbons.com;
Mark.Peters@orioncarbons.com; jimmy.boyd@orioncarbons.com; DFriedland@bdlaw.com; RCarra@bdlaw.com;
Chatfield, Ethan [chatfield.ethan@epa.gov]; Wagner, William [wagner.william@epa.gov]; Welton, Patricia
[Welton.Patricia@epa.gov]; Thompson, Steve [thompson.steve@epa.gov]

Subject: DOJ/EPA Meeting w/Orion Engineered Carbons

Location: Department of Justice, 950 Pennsylvania Ave., NW Room 2143 / Ex. 6 Personal Privacy (PP) Conference code: Ex. 6 Personal Privacy (PP)

Start: 4/12/2017 1:00:00 PM

End: 4/12/2017 2:00:00 PM

Show Time As: Busy

Recurrence: (none)

(Visitors entrance on Constitution Avenue, between 9th & 10th)

Appointment

From: Cathey, Tawanna [Cathey.Tawanna@epa.gov]
Sent: 9/7/2017 12:46:13 PM
To: Traylor, Patrick [traylor.patrick@epa.gov]; Ortega, Kellie [Ortega.Kellie@epa.gov]; Quinn, Elias (ENRD) [Elias.Quinn@usdoj.gov]
CC: Abend, Katherine (ENRD) [Katherine.Aabend@usdoj.gov]; Thomas.Carroll@USDOJ.GOV; Dunn, Jason (ENRD) [Jason.Dunn@usdoj.gov]; Boxerman, Samuel B. [sboxerman@sidley.com]; Thompson, Steve [thompson.steve@epa.gov]; Welton, Patricia [Welton.Patricia@epa.gov]; Jones, John-L [jones.john-l@epa.gov]; Shahin, Emad [Shahin.Emad@epa.gov]; Evans, Carlos [Evans.Carlos@epa.gov]
Subject: Meeting with Continental Carbon (carbon black company)
Location: DCRoomARS1142/DC-ARIEL-RIOS-OECA-OCE
Start: 9/7/2017 2:00:00 PM
End: 9/7/2017 3:00:00 PM
Show Time As: Tentative

Appointment

From: Brooks, Phillip [Brooks.Phillip@epa.gov]
Sent: 8/30/2017 11:11:51 PM
To: Traylor, Patrick [traylor.patrick@epa.gov]; Ortega, Kellie [Ortega.Kellie@epa.gov]; Quinn, Elias (ENRD) [Elias.Quinn@usdoj.gov]
CC: Abend, Katherine (ENRD) [Katherine.Aabend@usdoj.gov]; Thomas.Carroll@USDOJ.GOV; Dunn, Jason (ENRD) [Jason.Dunn@usdoj.gov]; Boxerman, Samuel B. [sboxerman@sidley.com]
Subject: Meeting with Continental Carbon (carbon black company)
Location: TBD

Start: 9/7/2017 2:00:00 PM
End: 9/7/2017 3:00:00 PM
Show Time As: Tentative

Appointment

From: Abend, Katherine (ENRD) [Katherine.Aabend@usdoj.gov]
Sent: 11/21/2017 3:55:23 PM
To: Dunn, Jason (ENRD) [Jason.Dunn@usdoj.gov]; Ortega, Kellie [Ortega.Kellie@epa.gov]; Brooks, Phillip [Brooks.Phillip@epa.gov]; Traylor, Patrick [traylor.patrick@epa.gov]; David M. Friedland [DFriedland@bdlaw.com]; 'Ryan J. Carra' [RCarra@bdlaw.com]; Makram B. Jaber Esq. (mjaber@hunton.com) [mjaber@hunton.com]; Mark.Peters@orioncarbons.com; Christian.Eggert@orioncarbons.com

Subject: Orion Meeting

Location: Phone: Ex. 6 Personal Privacy (PP) Conference Code: Ex. 6 Personal Privacy (PP)

Start: 11/21/2017 8:00:00 PM

End: 11/21/2017 9:00:00 PM

Show Time As: Tentative

Recurrence: (none)

Appointment

From: Abend, Katherine (ENRD) [Katherine.Aabend@usdoj.gov]
Sent: 11/21/2017 3:56:57 PM
To: Abend, Katherine (ENRD) [Katherine.Aabend@usdoj.gov]; Dunn, Jason (ENRD) [Jason.Dunn@usdoj.gov]; Ortega, Kellie [Ortega.Kellie@epa.gov]; Brooks, Phillip [Brooks.Phillip@epa.gov]; Traylor, Patrick [traylor.patrick@epa.gov]; David M. Friedland [DFriedland@bdlaw.com]; 'Ryan J. Carra' [RCarra@bdlaw.com]; Makram B. Jaber Esq. (mjaber@hunton.com) [mjaber@hunton.com]; Mark.Peters@orioncarbons.com; Christian.Eggert@orioncarbons.com

Subject: Orion Meeting
Location: Phone [Ex. 6 Personal Privacy (PP)] Conference Code [Ex. 6 Personal Privacy (PP)]

Start: 11/21/2017 8:00:00 PM
End: 11/21/2017 9:00:00 PM
Show Time As: Busy

Recurrence: (none)

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From: Brooks, Phillip [Brooks.Phillip@epa.gov]
Sent: 8/30/2017 11:11:52 PM
To: Brooks, Phillip [Brooks.Phillip@epa.gov]; Traylor, Patrick [traylor.patrick@epa.gov]; Ortega, Kellie [Ortega.Kellie@epa.gov]; Quinn, Elias (ENRD) [Elias.Quinn@usdoj.gov]
CC: Abend, Katherine (ENRD) [Katherine.Aabend@usdoj.gov]; Thomas.Carroll@USDOJ.GOV [Thomas.Carroll@usdoj.gov]; Dunn, Jason (ENRD) [Jason.Dunn@usdoj.gov]; Boxerman, Samuel B. [sboxerman@sidley.com]; Thompson, Steve [thompson.steve@epa.gov]; Welton, Patricia [Welton.Patricia@epa.gov]; Jones, John-L [jones.john-l@epa.gov]; Shahin, Emad [Shahin.Emad@epa.gov]; Evans, Carlos [Evans.Carlos@epa.gov]
Subject: Meeting with Continental Carbon (carbon black company)
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Start: 9/7/2017 2:00:00 PM
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Appointment

From: Brooks, Phillip [Brooks.Phillip@epa.gov]
Sent: 8/30/2017 11:11:51 PM
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CC: Abend, Katherine (ENRD) [Katherine.Aabend@usdoj.gov]; Thomas.Carroll@USDOJ.GOV; Dunn, Jason (ENRD) [Jason.Dunn@usdoj.gov]; Boxerman, Samuel B. [sboxerman@sidley.com]
Subject: Meeting with Continental Carbon (carbon black company)
Location: TBD

Start: 9/7/2017 2:00:00 PM
End: 9/7/2017 3:00:00 PM
Show Time As: Tentative

Message

From: Chapman, Apple [Chapman.Apple@epa.gov]
Sent: 9/7/2017 12:54:06 PM
To: Traylor, Patrick [traylor.patrick@epa.gov]; Ortega, Kellie [Ortega.Kellie@epa.gov]; Quinn, Elias (ENRD) [Elias.Quinn@usdoj.gov]; Quinn, Elias (ENRD) [Elias.Quinn@usdoj.gov]
CC: Abend, Katherine (ENRD) [Katherine.Aband@usdoj.gov]; Thomas.Carroll@USDOJ.GOV; Dunn, Jason (ENRD) [Jason.Dunn@usdoj.gov]; Boxerman, Samuel B. [sboxerman@sidley.com]; Thompson, Steve [thompson.steve@epa.gov]; Welton, Patricia [Welton.Patricia@epa.gov]; Jones, John-L [jones.john-l@epa.gov]; Shahin, Emad [Shahin.Emad@epa.gov]; Evans, Carlos [Evans.Carlos@epa.gov]; Abend, Katherine (ENRD) [Katherine.Aband@usdoj.gov]; Thomas.Carroll@USDOJ.GOV; Dunn, Jason (ENRD) [Jason.Dunn@usdoj.gov]; Boxerman, Samuel B. [sboxerman@sidley.com]; Thompson, Steve [thompson.steve@epa.gov]
Subject: Meeting with Continental Carbon (carbon black company)

Folks,
This meeting will be in WJCS 3216 instead of 1142. Thanks.

Ms. Apple Chapman | Deputy Director, Air Enforcement Division | U.S. Environmental Protection Agency
1200 Pennsylvania Ave. NW, Washington DC, 20004 | 202-564-5666 (office) [Ex. 6 Personal Privacy (PP)](mobile) |

Appointment

From: Cathey, Tawanna [Cathey.Tawanna@epa.gov]
Sent: 9/7/2017 12:46:13 PM
To: Traylor, Patrick [traylor.patrick@epa.gov]; Ortega, Kellie [Ortega.Kellie@epa.gov]; Quinn, Elias (ENRD) [Elias.Quinn@usdoj.gov]
CC: Abend, Katherine (ENRD) [Katherine.Aabend@usdoj.gov]; Thomas.Carroll@USDOJ.GOV; Dunn, Jason (ENRD) [Jason.Dunn@usdoj.gov]; Boxerman, Samuel B. [sboxerman@sidley.com]; Thompson, Steve [thompson.steve@epa.gov]; Welton, Patricia [Welton.Patricia@epa.gov]; Jones, John-L [jones.john-l@epa.gov]; Shahin, Emad [Shahin.Emad@epa.gov]; Evans, Carlos [Evans.Carlos@epa.gov]
Subject: Meeting with Continental Carbon (carbon black company)
Location: DCRoomARS1142/DC-ARIEL-RIOS-OECA-OCE
Start: 9/7/2017 2:00:00 PM
End: 9/7/2017 3:00:00 PM
Show Time As: Tentative

Message

From: Savage, Justin A. [jsavage@sidley.com]
Sent: 3/14/2019 9:10:50 PM
To: Traylor, Patrick [traylor.patrick@epa.gov]
Subject: FW: SRC - WDOJ Rebuild and CD Pres (2019-03-11) 240952678_2 (TEP).pptx
Attachments: SRC - WDOJ Rebuild and CD Pres (2019-03-11) 240952678_2 (TEP) -- 25400353 v1.pptx

Flag: Follow up

JUSTIN A. SAVAGE

SIDLEY AUSTIN LLP
1501 K Street, N.W.
Washington, DC 20005
+1 202 736 8853

Ex. 6 Personal Privacy (PP)
jsavage@sidley.com
www.sidley.com

From: Savage, Justin A.
Sent: Tuesday, March 12, 2019 12:17 PM
To: 'Fogarty, Johnpc' <Fogarty.Johnpc@epa.gov>; 'Zander, Rachel' <Zander.Rachel@epa.gov>
Cc: Buente, David T. <dbuente@sidley.com>
Subject: FW: SRC - WDOJ Rebuild and CD Pres (2019-03-11) 240952678_2 (TEP).pptx

Settlement Confidential – Subject to Fed. R. Evid. 408

Here are slides used for the WI DOJ meeting. These are slightly tweaked versions of the slides used for the meeting with you all last week.

JUSTIN A. SAVAGE

SIDLEY AUSTIN LLP
1501 K Street, N.W.
Washington, DC 20005
+1 202 736 8853

Ex. 6 Personal Privacy (PP)
jsavage@sidley.com
www.sidley.com

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If you are not the intended recipient, please delete the e-mail and any attachments and notify us immediately.

Message

From: Morales, Marshall R. [mrmorales@sidley.com]
Sent: 3/22/2019 9:06:11 PM
To: Traylor, Patrick [traylor.patrick@epa.gov]; bruce.gelber@usdoj.gov
CC: randall stone [randall.stone@USdoj.gov]; Fogarty, Johnpc [Fogarty.Johnpc@epa.gov]; Savage, Justin A. [jsavage@sidley.com]; Buente, David T. [dbuente@sidley.com]; 'Palmer, Todd E (24432)' [tepalmer@michaelbest.com]; 'Dan Syphard' [Dan.Syphard@huskyenergy.com]
Subject: Letter on Superior Refining Consent Decree Amendment
Attachments: SRC Letter to Traylor and Gelber (3-22-19) 241513302_1.pdf

Flag: Flag for follow up

Dear Messrs. Traylor and Gelber:

Please find attached, sent on behalf of Justin Savage and Todd Palmer, a letter regarding Superior Refining Company's proposal for authorizing its refinery rebuild by consent decree amendment. Please let us know if you have any questions before the meeting next Friday.

Best,
Marshall Morales

MARSHALL R. MORALES
Associate

SIDLEY AUSTIN LLP
1501 K Street, N.W.
Washington, DC 20005
+1 202 736 8920
mrmorales@sidley.com
www.sidley.com

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+1 202 736 8000
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JSVAGE@SIDLEY.COM
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MICHAEL BEST & FRIEDRICH LLP
100 EAST WISCONSIN AVENUE
SUITE 3300
MILWAUKEE, WI 53202
+1 414 271 6560
+1 414 277 0656 FAX

TEPALMER@MICHAELBEST.COM
+1 608 283 4432

SETTLEMENT CONFIDENTIAL

March 22, 2019

Patrick Traylor
Deputy Assistant Administrator
U.S. Environmental Protection Agency
Office of Enforcement and Compliance Assurance
1200 Pennsylvania Avenue, N.W.
Washington, DC 20460

Bruce Gelber
Deputy Assistant Attorney General
U.S. Department of Justice
Environment and Natural Resources Division
950 Pennsylvania Avenue, N.W.
Washington, DC 20530

Re:

Ex. 4 CBI

Dear Messrs. Traylor and Gelber:

Ex. 4 CBI

The Flex Permit

Prior to the incident, SRC had obtained PSD major source air permits from the Wisconsin Department of Natural Resources (WDNR) authorizing the modification and enhancement of a number of refinery process units, including the Crude Unit and FCCU.¹ When issuing the Flex Permit, WDNR conducted air impact analyses and established Best Available Control Technology (BACT) limitations, as appropriate, for these modified process units. When finalizing the Flex Permit, WDNR issued its Findings of Fact, Conclusions of Law and Decision stating that all modified units at the Refinery are to be operated in conformance with the applicable requirements in the Flex Permit. Further, it recognized that the modifications and enhancements authorized for construction were those described in delineated permit application materials.²

¹ See Permit Nos. 16-RAB-183 and 16-RAB-184.

² Findings of Fact, Conclusions of Law and Decision, Permit No. 16-RAB-184 (February 16, 2018).

Since PSD is a preconstruction permitting program for complicated industrial processes, regulators understand that “as-built” modifications may not be identical to what was described in a permit application. To address this eventuality, the Flex Permit directs SRC to timely update its permit application identifying any changes to the construction parameters that deviate from the plans and specifications that had been submitted prior to permit issuance:

The permittee shall submit to the department any updates of the permit application. Updates are required if any changes that occur which are not specified or described in the plans and specifications dated [various dates]. The updates shall be made within 60 days of the date of the change³

Upon submitting these updates, WDNR can then review the changes and decide what, if any, further permitting is necessary.

Ex. 4 CBI

³ Permit No. 16-RAB-184, § I.Z.1.b.(3).

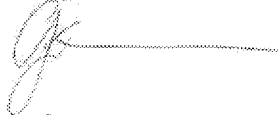
⁴ The Flex Permit was issued on February 16, 2018.

⁵ “For a new emissions unit, the baseline actual emissions for purposes of determining the emissions increase that will result from the initial construction and operation of the unit shall equal zero; and thereafter, for all other purposes, shall equal the unit’s potential to emit.” NR 405.02(2m)(c).

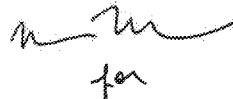
Ex. 4 CBI

Thank you for considering this proposal. We look forward to discussing it with you.

Sincerely,



Justin Savage
Sidley Austin LLP


for

Todd Palmer
Michael Best & Friedrich LLP

cc: David Buente, Sidley Austin LLP
Daniel Syphard, Husky Energy
Randall Stone, U.S. Department of Justice
Phillip Brooks, U.S. Environmental Protection Agency
John Fogarty, U.S. Environmental Protection Agency

Confidential Settlement Communication
(FRE 408; 40 C.F.R. § 22.22)

ATTACHMENT

1

Confidential Settlement Communication (FRE 408; 40 C.F.R. § 22.22)
Contains CBI

Ex. 4 CBI

*Confidential Settlement Communication (FRE 408; 40 C.F.R. § 22.22)
Contains CBI*

Ex. 4 CBI

*Confidential Settlement Communication (FRE 408; 40 C.F.R. § 22.22)
Contains CBI*

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*Confidential Settlement Communication (FRE 408; 40 C.F.R. § 22.22)
Contains CBI*

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*Confidential Settlement Communication (FRE 408; 40 C.F.R. § 22.22)
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Sent: 11/21/2017 3:55:23 PM
To: Dunn, Jason (ENRD) [Jason.Dunn@usdoj.gov]; Ortega, Kellie [Ortega.Kellie@epa.gov]; Brooks, Phillip [Brooks.Phillip@epa.gov]; Traylor, Patrick [traylor.patrick@epa.gov]; David M. Friedland [DFriedland@bdlaw.com]; 'Ryan J. Carra' [RCarra@bdlaw.com]; Makram B. Jaber Esq. (mjaber@hunton.com) [mjaber@hunton.com]; Mark.Peters@orioncarbons.com; Christian.Eggert@orioncarbons.com

Subject: Orion Meeting
Location: Phone: Ex. 6 Personal Privacy (PP) Conference Code: Ex. 6 Personal Privacy (PP)
Start: 11/21/2017 8:00:00 PM
End: 11/21/2017 9:00:00 PM
Show Time As: Tentative

Recurrence: (none)

All,
I am scheduling this meeting at Orion's request to discuss the level playing field issue. David, please check that the appropriate Orion participants are included and forward the invitation to other Orion participants if needed. Thanks.

Best,

Kate

Katherine A. Abend

Trial Attorney

U.S. Department of Justice, ENRD

Environmental Enforcement Section

Express Mail: ENRD Mailroom, Room 2121, 601 D St., NW, Washington, DC

20004

USPS: P.O. Box 7611, Ben Franklin Station, Washington, DC

20044-7611

Phone: (202) 514-2463

Email: katherine.abend@usdoj.gov

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Subject: Orion Meeting
Location: Phone: [Ex. 6 Personal Privacy (PP)] Conference Code: [Ex. 6 Personal Privacy (PP)]
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Kate

Katherine A. Abend

Trial Attorney

U.S. Department of Justice, ENRD

Environmental Enforcement Section

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20044-7611

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Email: katherine.abend@usdoj.gov

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CC: Abend, Katherine (ENRD) [Katherine.Aabend@usdoj.gov]; Thomas.Carroll@USDOJ.GOV [Thomas.Carroll@usdoj.gov]; Dunn, Jason (ENRD) [Jason.Dunn@usdoj.gov]; Boxerman, Samuel B. [sboxerman@sidley.com]; Thompson, Steve [thompson.steve@epa.gov]; Welton, Patricia [Welton.Patricia@epa.gov]; Jones, John-L [jones.john-l@epa.gov]; Shahin, Emad [Shahin.Emad@epa.gov]; Evans, Carlos [Evans.Carlos@epa.gov]
Subject: Meeting with Continental Carbon (carbon black company)
Location: DCRoomARS1142/DC-ARIEL-RIOS-OECA-OCE
Start: 9/7/2017 2:00:00 PM
End: 9/7/2017 3:00:00 PM
Show Time As: Busy

Appointment

From: Bailey, Ethel [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=9b33dd651fa04119be02b7b6b151ff91-Bailey, Ethel]
Sent: 3/22/2019 2:22:28 PM
To: Traylor, Patrick [traylor.patrick@epa.gov]; randall.stone@USdoj.gov; jsavage@sidley.com; dbuente@sidley.com; Fogarty, Johnpc [Fogarty.Johnpc@epa.gov]
Subject: Superior Refinery
Location: EPA Hqs 1200 Penn Ave NW, Wash, DC Room 3216 William Jefferson Clinton South Building
Start: 3/29/2019 3:00:00 PM
End: 3/29/2019 3:30:00 PM
Show Time As: Busy

POC: Shanita Loving, (202) 564-2440

Directions and procedures to 1200 Pennsylvania Avenue NW:

Metro: If you come by Metro get off at the Federal Triangle metro stop. Exit the metro station and go up two sets of escalators to the surface level and turn left. You will see a short staircase and wheelchair ramp leading to a set of glass doors with the EPA logo - that is the William Jefferson Clinton Federal Building, South Entrance.

Taxi: Direct the taxi to drop you off on 12th Street NW, between Constitution and Pennsylvania Avenues, at the elevator for the Federal Triangle metro stop - this is almost exactly half way between the two avenues on 12th Street NW. Facing the building with the EPA logo and American flags, walk toward the building and take the glass door on your left hand side with the escalators going down to the metro on your right— that is the South Lobby of the William Jefferson Clinton building.

Security Procedures: A government issued photo id is required to enter the building and it is suggested you arrive 15 minutes early in order to be cleared and arrive at the meeting room on time. Upon entering the lobby, the meeting attendees will be asked to pass through security and provide a photo ID for entrance. Let the guards know that you were instructed to call 202-564-2440 for a security escort.

Appointment

From: Gray, David [gray.david@epa.gov]
Sent: 4/17/2019 10:50:11 PM
To: Gray, David [gray.david@epa.gov]; Traylor, Patrick [traylor.patrick@epa.gov]; Chuck.Brown@LA.GOV; edward.krenik@bracewell.com; Chiang, I-Jung [chiang.i-jung@epa.gov]; Chancellor, Erin [chancellor.erin@epa.gov]; Seager, Cheryl [Seager.Cheryl@epa.gov]; Lannen, Justin [Lannen.Justin@epa.gov]
CC: Welton, Patricia [Welton.Patricia@epa.gov]; Barnett, Cheryl [Barnett.Cheryl@epa.gov]; Gregory Langley [Gregory.Langley@LA.GOV]; Roger Gingles [Roger.Gingles@la.gov]; Idsal, Anne [idsal.anne@epa.gov]; Schwab, Justin [Schwab.Justin@epa.gov]; Lourdes Iturralde [Lourdes.Iturralde@LA.GOV]; Ted Broyles [Ted.Broyles@LA.GOV]
Subject: DPE/EPA/LDEQ/DOJ General Discussion
Location: Ex. 6 Personal Privacy (PP) code Ex. 6 Personal Privacy (PP)
Start: 4/22/2019 7:00:00 PM
End: 4/22/2019 8:00:00 PM
Show Time As: Busy

General Discussion with DPE officials and LDEQ, EPA and DOJ. This call may contain confidential settlement discussions and subject to non-disclosure provisions as set forth by DOJ/EPA/LDEQ/DPE attorneys.

Please forward to appropriate participants only.